

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
NATIONAL INDEMNITY COMPANY,)

Plaintiff,)

vs.)

STONEWALL INSURANCE COMPANY AND)
SEATON INSURANCE COMPANY,)

Defendants.)
-----X

Civil Action No. 08 Civ. 3718 (RWS)
(ECF Case)

**DEFENDANTS' MOTION
TO STAY OR DISMISS AND
TO COMPEL ARBITRATION**

TO: ALL ATTORNEYS OF RECORD

PLEASE TAKE NOTICE that, on September 17, 2008, at 12:00 noon, or as soon thereafter as counsel can be heard, defendants Stonewall Insurance Company ("Stonewall") and Seaton Insurance Company ("Seaton") (collectively "Defendants"), by and through their attorneys, Hargraves McConnell & Costigan, P.C. and Riker, Danzig, Scherer, Hyland & Perretti LLP, will move before the Honorable Robert W. Sweet, U.S.D.J., United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, Courtroom 18C, New York, New York, for the entry of an Order under Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure and Sections 3 and 4 of the Federal Arbitration Act ("FAA") to: (i) dismiss the complaint of National Indemnity Company ("NICO"), or stay this action in favor of arbitration; and (ii) compel NICO to arbitrate.

PLEASE TAKE FURTHER NOTICE that, in support of this motion, Defendants shall rely upon the Declaration of James McConnell, dated July 23, 2008, with exhibits attached thereto, and the memorandum of law filed herewith.


PLEASE TAKE FURTHER NOTICE that a proposed form of an Order is submitted herewith.

PLEASE TAKE FURTHER NOTICE that all opposing affidavits and answering memoranda shall be served in accordance with Local Civil Rule 6.1.

PLEASE TAKE FURTHER NOTICE that Defendants respectfully request oral argument unless their motion is uncontested.

Dated: New York, New York
July 23, 2008

Respectfully submitted,

By: 
Daniel Hargraves (dhargraves@hm-law.com)
James McConnell (jdmconnell@hm-law.com)

HARGRAVES McCONNELL & COSTIGAN, P.C.
The Graybar Building
420 Lexington Avenue, Suite 2101
New York, New York 10170
(212) 218-8760

--and--

RIKER DANZIG SCHERER HYLAND
& PERRETTI LLP
500 Fifth Avenue, 49th Floor
New York, New York 10110
(212) 302-6574

Attorneys for Defendants Stonewall Insurance
Company and Seaton Insurance Company